

There are a number of interesting pieces of HIPAA information included. Of special interest may be:

- 1) Security Rule and TCS Changes expected Dec. 27
- 2) CalOHI Policy Memo PM 2002-13 - Privacy tools/templates

As always: Please be sure to note that in some cases the information presented may be the opinion of the original author. We need to be sure to view it in the context of our own organizations and environment. You may need additional information, support, legal opinions and/or decision documentation when interpreting the rules.

My thanks to all the folks who have shared information for this e-news.

Have a great day!!!

Enjoy!!!

Ken

(916-654-2466 if needed)

Several items that may be of interest:

CalOHI Policy Memo PM 2002-13 - Privacy tools/templates
Oopsy - temporary codes will be added back in
WEDI Foundation and CHITA Present HIPAA Solutions: Achieving Compliance
CMS Compliance Comments
CalOHI Policy Memorandum 2002-10 Revised
[hipaalive] Re: TCS: Penalty for Non-electronic
[hipaalive] RE: PRIVACY-Designated Record Sets
[hipaalive] PRIVACY: email encryption necessary for TPO?
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[hipaalive] General: Hipaa Humor
HIPAA Implementation Newsletter -- Issue #46 - Nov. 15, 2002 - ATTACHED
Compliance Congress Features New Arenas for the Compliance Professional -
ATTACHED
[hipaalert] HIPAAAlert-lite - 11/18/02 - ATTACHED

***** CalOHI Policy Memo PM 2002-13 - Privacy tools/templates *****

We are extremely proud to provide a series of Privacy tools/templates developed by the HIPAA Privacy Workgroup, in the attached Policy Memorandum 2002-13. Also attached is Exhibit 2, HIPAA Privacy Process which provides Guidelines on the use of the tools/templates. The remaining Exhibits can be found on the CalOHI website for your convenience.

The Policy is available on CalOHI's website at www.OHI.ca.gov

<<2002-13 policy memo re Privacy Implementation.doc>> <<2002-13
Exhibit 2 HIPAA Privacy Map & Gap Instructions.doc>>

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***** Oopsy - temporary codes will be added back in *****

>>> <gcox@oshpd.state.ca.us> 11/20/02 04:34PM >>>

**** National Medicaid EDI HIPAA (NMEH) Mailing List ****

CMS has updated its website with the temporary codes that were omitted from the HCPCS database for 2003.

Click on the "Temporary code List" , the list of temporary codes for use in 2003 with the introductory paragraph indicating that the codes were inadvertently omitted from the HCPCS database is there. The update is dated November 13, 2002.

The full website address is <http://cms.hhs.gov/medicare/hcpcs/hcpctmp.pdf>

**** WEDI Foundation and CHITA Present HIPAA Solutions: Achieving Compliance

HIPAA Solutions: Achieving Compliance

December 12-13, 2002

Washington State Convention & Trade Center
Seattle, WA

For complete details about the upcoming seminar, see the attached document.

Take care, Rikki
Rikki S. Epstein
Executive Director
WEDI Foundation

***** CMS Compliance Comments *****

From Bureau of National Affairs (11/4/2002)

CMS May Pull Funds From States Not Complying With Transaction Rule

BALTIMORE--The Centers for Medicare & Medicaid Services may withdraw matching Medicaid improvement funds from a state if it is not compliant with federal transaction and code set rules, a CMS official said Nov. 1.

Speaking at the Fifth National HIPAA Summit, Richard Friedman, the director of the division of state systems at CMS, said all 50 states have requested the one-year delay in compliance with the transaction and code set rule. They have until Oct. 16, 2003, to alter their systems to comply with the rule issued under the administrative simplification title of the Health Insurance Portability and Accountability Act.

This should give states an incentive to become compliant, especially considering the state budget crises, Friedman said.

Under the matching fund program, states come up with 10 percent and the federal government pitches in 90 percent for "fixing their systems," Friedman told BNA. Then, when the systems are up and running, the federal government gives states 75 percent for maintenance and the states chip in 25 percent.

Not on 'Radar Screens

"It averages about \$20 million per state, with the larger states getting more," Friedman said. "It's about a total of \$1 billion. That has to be put in context of \$240 billion for the entire Medicaid program."

Currently, HIPAA "doesn't seem to be on the radar screens" of states, Friedman said.

CMS plans to send the states letters requesting that they voluntarily report to the agency their progress toward HIPAA compliance. However, Friedman said he hopes states will be more forthcoming and accurate on their HIPAA progress than they were with similar requests under Y2K. Some states would report they were making significant progress toward Y2K compliance, Friedman said, but inspections revealed a considerably lower level of preparedness.

Various CMS and Department of Health and Human Services Web sites are available to help states, as well as covered entities, comply with the HIPAA transaction and privacy rules, Friedman said. Additionally, the agency has a CD-ROM, Medicaid HIPAA Compliance Concept Model that could help states assess their progress toward compliance with the transaction rule.

***** CalOHI Policy Memorandum 2002-10 Revised *****

(Go to www.hipaa.ca.gov/ , it will take you to CalOHI's home page, then you click on California Implementation and then click on Policy/Information Memorandums.)

CalOHI Policy Memorandum 2002-10 is Revised. The revised text is noted with change bars.

Revisions were made to ensure consistency with current DGS policies and to clarify requirements for preparing and posting a Statement of Work on the CalOHI website.

As always, this memorandum will be posted to the CalOHI website.

<<2002-10-revised.doc>>

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***** [hipaalive] Re: TCS: Penalty for Non-electronic *****
** HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com **

HIPAA is silent on the mechanisms that a payer may employ to encourage providers to submit electronically. In fact, the ASCA (Administrative Simplification Compliance Act - which extended the TCS deadline from 2002 to 2003) includes language that requires that all providers submit claims to Medicare electronically. From the ASCA FAQ #24
(<http://aspe.os.dhhs.gov/admsimp/ASCA%20FAQs-1-31.htm>)

"ASCA prohibits HHS from paying Medicare claims that are not submitted electronically after October 16, 2003, unless the Secretary grants a waiver from this requirement. It further provides that the Secretary must grant such a waiver if there is no method available for the submission of claims in electronic form or if the entity submitting the claim is a small provider of services or supplies. Beneficiaries will also be able to continue to file paper claims if they need to file a claim on their own behalf. The Secretary may grant such a waiver in other circumstances. We will publish proposed regulations to implement this new authority. "

In addition, I have heard a lot of talk of payers planning (in 2004 or 05) to start implementing fees for submitting paper claims. Of course this type of "arrangement" would be negotiated in your contracting talks with payers.

Regards,
Laurance

***** [hipaalive] RE: PRIVACY-Designated Record Sets *****
** HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com **

Marcie,

I believe that your question is addressed by section 162.925(a)(4) & (5) of the HIPAA TCS standards:

(4) A health plan may not offer an incentive for a health care provider to conduct a transaction covered by this part as a transaction described under the exception provided for in Sec. 162.923(b).

(5) A health plan that operates as a health care clearinghouse, or requires an entity to use a health care clearinghouse to receive, process, or transmit a standard transaction may not charge fees or costs in excess of the fees or costs for normal telecommunications that the entity incurs when it directly transmits, or receives, a standard transaction to, or from, a health plan.

I hope that this helps.

Your questions are always welcome.

Matt

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***** [hipaalive] PRIVACY: email encryption necessary for TPO?

** HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com **

Chad,

Your conclusion is not entirely correct. The security rule is crafted such that you need to protect the information through access controls or encryption. E-mail that is sent via the Internet cannot have its access controlled, so it must be encrypted. But e-mail within a protected network with proper access controls, such as corporate e-mail that never ventures out into the Internet, does not have to be encrypted.

Please let me know if you have any further questions. Thanks.

Jim

Jim Sheldon-Dean

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***** [hipaalive] PRIVACY: Psychotherapy Notes *****

** HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com **

Psychotherapy notes and progress notes are considered separate things under HIPAA. Psychotherapy notes only apply to providers providing psychotherapy. Physician notes or psychiatric notes are NOT psychotherapy notes. Basically, psychotherapists have to make two records, one for billing and the chart (progress note) and one for their own use (psychotherapy note). Some therapists call psychotherapy notes process notes, since the purpose is to assist the therapist; they are the therapists notes for self use. The purpose of the distinction is to protect private information. Psychotherapy notes might make reference to histories of sexual abuse, issues of sexuality, etc.; all things that are very private. Psychotherapy notes are not the same as psychological reports, test results, or other notes meant to communicate a professional opinion to another person. These can be included in the general medical record. However, these other forms of information are controlled by the same rules that govern all other aspects of PHI. Under

HIPAA the psychotherapy notes must be kept separate from the other medical information.

The definition of psychotherapy notes, according to HIPAA is:

"Notes recorded in any medium by a mental health provider documenting or analyzing the contents of a conversation during a private, group, joint, or family counseling session, and that are separated from the rest of the individual's medical record."

Under HIPAA, information that can be excluded from the protection of the rule governing psychotherapy notes is:

"Information pertaining to medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment furnished, results of clinical tests and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date."

Under most state laws, releasing psychotherapy notes was/is already well controlled. The only significant difference is in the control of access to electronic therapy notes, which must now be restricted to only the psychotherapist. Members/patients can have access to all of their record, including psychotherapy notes, depending on state law. HIPAA states the psychotherapy notes cannot be released to anyone, besides the member/patient, unless required by law (i.e., court order, duty to warn, etc.). If psychotherapy notes are requested for benefit or payment determination, HIPAA jumps in once again with:

"Covered entities are prohibited from conditioning treatment, eligibility for benefits, or payment of claims on the patient's authorization to disclose psychotherapy notes."

So, basically, don't expect to see psychotherapy notes popping up anywhere without an authorization for release from the member, which you will likely not receive.

The APA has a nice little .pdf called the HIPAA Primer. It can be found at <http://www.apait.org/resources/hipaa>

That is all I know,

Chad Losee, Psy.D.

***** [hipaalive] General: Hipaa Humor *****

** HIPAAlive! From Phoenix Health Systems/HIPAAAdvisory.com **

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A while back someone was asking for HIPAA humor. I don't remember much of a response, but this just came across my email and I thought it might be a

small addition to the cause:
TOP HIPAA PUNS

The first of these puns were generated by Larry Watkins of WEDI, the rest came from Montana.

(COURTESY Nicholas Watkins (5))"If you keep on speaking about HIPAA, you're going to become a HIPAApotamus!"

What is the effect of today's meeting/presentation?
HIPAAnosis

What will you least likely say after this meeting?
HIP- HIPAA-Ray

What do you call urgent HIPAA issues?
HIPAA critical

What do you call a provider if he/she is found to have violated patient confidentiality?
HIPAA crit

What do you call a theory for HIPAA success?
HIPAA thesis

What do you call the passage of all HIPAA rules?
HIPAA thetical situation

What does one experience once they've grown cold to HIPAA compliance threats?
HIPAA thermia

What do you call someone who complains incessantly about HIPAA?
HIPAA condriac

What do you say on October 16, 2002?
I'm in a HIPAA trouble

What do you call the uphill slope toward HIPAA compliance?
HIPAA tenuse

What do you call a "shot" of HIPAA humor?
HIPAA dermic

What do you call someone who thinks HIPAA is sweet?
HIPAA glycemic

What is the disease you get from too much HIPAA?
HIPAA titis

What do you call someone who is delighted with HIPAA?

HIPAA go lucky

What cowboy will star on Saturday morning tv after HIPAA?
HIPAA Along Cassidy

What do you call someone who is afraid of HIPAA?
HIPAA phobic

What do you call a boring person who talks in circles about HIPAA?
HIPAA Drone

What do you call government personnel who write HIPAA rules?
HIPAA crats

Christmas HIPAA humor.

'Twas the night before surgery, and all 'cross the floor
The patients were buzzing 'bout the guy in Room Four.
His chart was hung on his door with great care
To make sure his name was not shown anywhere.

The patients were nestled all snug in their beds
While telemetry monitors beeped overhead.
And I in my gown, with its crack in the back,
Had just settled down for my clear liquid snack.

When down the hall there arose such a clatter,
I sprang from my bed to see what was the matter.
I pulled off my leads and flew out the door,
With my IV pole dragging behind on the floor.

Away to Room Four I hurriedly dashed
Unaware of my gown and the nurses I flashed.
As I slid to a halt and leaned to peek in
I heard the nurse say, "Sir, you mustn't go in!"

And what did I see when I looked in Bed A
But ole Mr. Claus; on his belly he lay.
Covered in gauze and stuck high in the air
Oh what a sight, 'twas St. Nick's derriere!

He was yelling at Doris, the nurse at his side
To be tied to this bed, he just could not abide.
He moaned and he bellowed about his ill luck
But there was just nothing for it; the old man was stuck.

"What happened to Santa?" to Doris I said,
"Why's he on his belly in this hospital bed?"

With a grin she whispered, "He did something stupid.
He injured his butt when he backed into Cupid."

But the old man's ears were sharp as tack.
He heard what she said there behind his back.
"You had no right to speak, and that is a fact!
Don't you know about HIPAA, the privacy act?"

"You're out of compliance, Doris, my dear.
You had no right to tell him 'bout my injured rear!
I'll sue you for breach, and this hospital, too!
You won't have a job when I'm through with you!"

- "When I check my list and then check it twice,
You'll be in the column labeled 'Not Nice.'
The HIPAA patrol will likewise drop by
- > To find out why you, Doris, did not comply!"
 - > "They'll want to know why you opened your yap,
 - > A big, hefty fine on your butt they will slap.
 - > And from me every Christmas you will now see
 - > Nothing but switches and coal 'neath your tree."
 - > Merry Christmas and HIPAA New Year!